

OLL 84-0136  
12 January 1984

## MEMORANDUM FOR THE RECORD

FROM:

[REDACTED]  
Legislation Division

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SUBJECT: Telephone Conversation with John Elliff, SSCI,  
re FOIA Legislation

1. On 6 January 1984, I called John Elliff, Senate Select Committee on Intelligence, to inform him that the Agency did not believe it to be either feasible or necessary to institute a second level of administrative appeal for Freedom of Information Act (FOIA) requesters. I relayed the problems with this idea to John and he seemed willing to accept them. I did tell John that we were considering informing requesters who were appealing on the basis of passage of time that should they appeal at that stage they must understand that they then have no further administrative appeal to the Agency and their only recourse would be to file in federal court if they are dissatisfied with the response they receive. John said he would like to see an example of what that notice might look like and I agreed to send it to him once it was developed.

2. On the issue of S. 1324, John said that he had not yet had an opportunity to discuss the bill with either Mike O'Neill or Bernie Ramio. He did say, however, that he had had a good discussion with Bob Gellman, Counsel to Government Operations Subcommittee on Government Information, Justice, and Agriculture. Gellman is reported to be "very impressed" with the Senate work on S. 1324. Gellman does not feel the Subcommittee will delve into CIA related issues in the bill but may instead wish to amend our bill to add a provision stating that the Privacy Act is not a (b) (3) statute under the FOIA. Other "atmospherics" will be prepublication review and the polygraph issue. Overall, John said he is optimistic about the chances of the bill getting through English's subcommittee.

3. Concerning HPSCI consideration, John hopes that the Deputy Director of Central Intelligence will get together with Boland soon to schedule a hearing date ("the sooner the better"). John is concerned about a time crunch if we do not get a FOIA hearing scheduled prior to the first budget hearing.

4. According to John, the ACLU will prefer the language on intelligence abuses contained in the Mazzoli bill. They will also push for an expansion of the first-person exception to include requests by domestic organizations for information on themselves. John does not see the ACLU ever signing off completely on our FOIA bill because of their constituency.

[REDACTED]  
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